

REMARKS

Consideration of this application in view of the above amendments and following remarks is respectfully requested. Claims 1-26, 60-65 and 74-105 are now pending. Claims 9, 16, 17 and 19 have been amended. Claims 27, 28-57, 58-59, 66-73 and 106-145 have been canceled.

In the Office Action dated January 7, 2009, claims 16, 17, 74 and 75 stood rejected under 35 USC § 102(b) as being anticipated by a publication authored by A.R. McKenzie. In regard to claims 16 and 17, the Examiner indicated at page 2 of the Office Action that he viewed the claims as not being limited to facelift procedures, since the term “facelift” appeared only in the preamble and not as an actual step. To address this rejection in view of claims 16 and 17, applicants have amended claims 16 and 17 to indicate that the tissue being referred to in the claims, is facial tissue. Claim 19 has been amended for consistency. With this amendment, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection.

In regard to claims 74 and 75, applicants respectfully contend that the McKenzie publication does not anticipate these claims, for the following reasons. Turning first the McKenzie publication, it is wholly directed to joining two pieces of tendons that have apparently broken away from one another, *i.e.*, the tendon has snapped or been severed in some way, and the McKenzie publication provides methodology for joining the resulting tendon stumps together. In contrast, Applicant’s claimed invention is directed to bringing together and holding closed an open wound. This language “open wound” appears, for example, at the beginning of step (a) of claim 74, where claim 75 depends from claim 74. Applicants respectfully contend that one of ordinary skill in the art does not look at joining tendon stumps together in the same light as closing an open wound, and to support this position Applicants point to the McKenzie publication itself. *See, e.g.*, page 444, 4<sup>th</sup> line down from the top, where the author states that a suture suitable for the skin and requiring no knots is at present under investigation. From this, one can only understand that the methodology disclosed in the McKenzie publication is not thought, by the author, to have immediate applicability to bringing together pieces of skin, which is a type of open wound of Applicant’s claimed invention. Accordingly, Applicant respectfully but strenuously contends that McKenzie does not identically disclose Applicant’s invention of

claim 74, as would be required for a proper rejection under 35 USC § 102, and indeed does not even teach or suggest that claimed method. The Examiner is requested to reconsider and withdraw the rejections under 35 USC § 102.

Further in the Office Action dated January 7, 2009, claims 9-15, 19, 20, 63-65, and 76-854 stand rejected under 35 USC § 103 as being unpatentable in view of the McKenzie publication. Looking first at claim 9, this claim is directed to bringing together and holding together two tissue portions of an open wound, *see, e.g.*, step (c) of claim 9. However, that feature could be made more clear in the claim and Applicant has amended claim 9 accordingly so that step (a), for example, recites “at the tissue separation of an open wound”. As mentioned previously, the McKenzie publication is not directed to surgical methods for an open wound, and indeed states that sutures and methods suitable for skin, where an open wound might be found, are still under investigation. Thus, the McKenzie publication does not teach or suggest to its reader(s) that the methodology of the publication may, or should, be applied to open wounds. In view thereof, reconsideration and withdraw of the rejection as applied to claim 9 and claims 10-15 and 76-84 which are dependent thereon, is respectfully requested.

The rejection under 35 USC § 103 based on the McKenzie publication has also been applied to claims 19, 20, 63-65, all of which ultimately depend from claim 16. As discussed previously, claim 16 has been amended to clarify that the tissue of the claimed method is facial tissue. As McKenzie does not teach or suggest any methodology for skin, including facial skin, Applicant respectfully contends that this rejection be reconsidered and withdrawn.

In view of the above amendments and remarks, allowing of claims 9-17, 19, 20, 63-65, and 74-84, in addition to the claims already in condition for allowance, namely claims 1-8, 18, 21-26, 60, 61 and 85-105, is respectfully requested. A good faith effort has been made to place this application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at 425-831-4416 to resolve the same.

Application No. 09/919,750  
Reply to Final Office Action dated January 7, 2009

The Director is authorized to charge any additional fees due by way of this amendment, or credit any overpayment, to our Deposit Account No. 50-2574.

Respectfully submitted,  
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